

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**MICHELLE DOTSON, BRIGITTE
LOTT AND REGINOLD STEPHENS
INDIVIDUALLY, RONALD DOTSON,
INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE
OF JANICE DOTSON-STEPHENS,
DECEASED**

Plaintiffs

v.

**BEXAR COUNTY, BEXAR COUNTY
HOSPITAL DISTRICT DBA
UNIVERSITY HEALTH SYSTEM,
BEXAR COUNTY PRE-TRIAL
SERVICES, UNKNOWN, UNNAMED
OFFICERS/EMPLOYEES OF THE
BEXAR COUNTY SHERIFF'S OFFICE,
UNKNOWN, UNNAMED OFFICERS/
EMPLOYEES OF THE BEXAR
COUNTY HOSPITAL DISTRICT DBA
UNIVERSITY HEALTH SYSTEM,
UNKNOWN, UNNAMED OFFICERS/
EMPLOYEES OF THE BEXAR
COUNTY PRE-TRIAL SERVICES**

Defendants

CASE NO. 5:19-cv-151

ORIGINAL ANSWER OF MIKE LOZITO

COMES NOW Defendant Mike Lozito and files this Original Answer to Plaintiffs' First Amended Petition and in support thereof respectfully shows as follows:

DISCOVERY CONTROL PLAN LEVEL

1. The allegations in Paragraph 1 concern a discovery control plan under state rules of procedure. Lozito denies that state rules of procedure apply because the case has been removed to federal court.

PARTIES AND SERVICE

2. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the First Amended Petition. Therefore, the allegations are denied.

3. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the First Amended Petition. Therefore, the allegations are denied.

4. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the First Amended Petition. Therefore, the allegations are denied.

5. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the First Amended Petition. Therefore, the allegations are denied.

6. Lozito denies that the use of the term “Plaintiff” to refer to any unspecified plaintiff or to the plaintiffs collectively is appropriate. Lozito further denies such use of the term in any way abrogates Plaintiffs’ duty to state their claims with the required specificity under law.

7. Lozito admits the allegations concerning service on Bexar County.

8. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the First Amended Petition. Therefore, the allegations are denied.

9. Lozito denies the allegations in Paragraph 9 of the First Amended Petition.

10. Lozito admits the allegations concerning service on Sheriff Salazar.

11. Lozito denies the allegations in Paragraph 11 of the First Amended Petition.

12. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the First Amended Petition. Therefore, the allegations are denied.

13. Lozito is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the First Amended Petition. Therefore, the allegations are denied.

JURISDICTION AND VENUE

14. Lozito denies the allegations in Paragraph 14 of the First Amended Petition.

15. The allegations contained in Paragraph 15 are statements of jurisdiction. Lozito admits that the United States District Court for the Western District of Texas has jurisdiction over Plaintiffs' claims but denies any other factual allegation.

16. The allegations contained in Paragraph 16 are statements of venue. Lozito admits that the United States District Court for the Western District of Texas, San Antonio Division is the proper venue but denies any other factual allegation.

FACTS

17. Lozito denies the allegations in Paragraph 17 of the First Amended Petition.

18. Lozito denies the allegations in Paragraph 18 of the First Amended Petition.

19. Lozito denies the allegations in Paragraph 19 of the First Amended Petition.

20. Lozito denies the allegations in Paragraph 20 of the First Amended Petition.

21. Lozito denies the allegations in Paragraph 21 of the First Amended Petition.

22. Lozito denies the allegations in Paragraph 22 of the First Amended Petition.

23. Lozito denies the allegations in Paragraph 23 of the First Amended Petition.

24. Lozito denies the allegations in Paragraph 24 of the First Amended Petition.

25. Lozito denies the allegations in Paragraph 25 of the First Amended Petition.

CLAIMS

26. Lozito denies the allegations in Paragraph 26 of the First Amended Petition.

27. Lozito denies the allegations in Paragraph 27 of the First Amended Petition.

28. Lozito denies the allegations in Paragraph 28 of the First Amended Petition.

29. Lozito denies the allegations in Paragraph 29 of the First Amended Petition.

30. Lozito denies the allegations in Paragraph 30 of the First Amended Petition.

31. Lozito denies the allegations in Paragraph 31 of the First Amended Petition.

INDEX OF CAUSES OF ACTION

The “causes of action” enumerated in this section of the First Amended Petition, whether apparently asserted against Lozito or other defendants, are not stated in a coherent or substantial manner, fail to state a claim upon which relief can be granted, and are denied in their entirety.

DAMAGES FOR PLAINTIFFS

32 [“28”]. Lozito denies the allegations in this paragraph of the First Amended Petition.

33 [“29”]. Lozito denies the allegations in this paragraph of the First Amended Petition.

34 [“30”]. Lozito denies the allegations in this paragraph of the First Amended Petition.

35 [“31”]. Lozito admits that Plaintiff requested a trial by jury.

PRAYER

[36.] Lozito denies the asserted claims for relief.

AFFIRMATIVE DEFENSES

37. Lozito asserts the doctrine of qualified immunity from all claims.

38. Any injuries sustained by Plaintiffs were the result of the actions of third parties over whom Lozito had no control and did not control.

39. The First Amended Petition fails to state a claim upon which relief can be granted.

40. Lozito reserves the right to add and rely upon such other further defenses as may become apparent during discovery in this action, and he reserves his right to amend his Answer and other pleadings to assert such additional defenses.

WHEREFORE, Defendant Mike Lozito demands judgment dismissing the above-entitled and numbered cause, along with costs and disbursements, and further awarding all such other and further relief as the Court shall deem just, equitable and proper.

Respectfully submitted,
JOE D. GONZALES
Bexar County Criminal District Attorney

By: /s/ Robert W. Piatt III
ROBERT W. PIATT III
SBN: 24041692
Assistant District Attorney
101 W. Nueva – Civil Division
San Antonio, Texas 78205
(210) 335-0785 – Telephone
(210) 335-2773 – Fax
robert.piatt@bexar.org

CERTIFICATE OF SERVICE

I do hereby certify on the 19th day of February, 2019, I electronically filed the foregoing Original Answer of Mike Lozito with the Clerk of Court using the CM/ECF system, and that on the same day I served the following counsel of record by electronic mail and facsimile transmission:

Leslie Sachanowicz
Texas Bar No. 17503200
les.law@hotmail.com
Mary Pietrazek
Texas Bar No. 24102358
pzklaw@gmail.com
702 Donaldson Avenue, Suite 206
San Antonio, Texas 78201
(210) 951-9795
Fax: (210) 855-2045
Attorneys for Plaintiffs

Laura A. Cavaretta
Texas Bar No. 04022820
cavarettal@ckl-lawyers.com
Cavaretta, Katona & Leighner PLLC
One Riverwalk Place
700 N. St. Mary's Street, Suite 1500
San Antonio, Texas 78205
(210) 588-2901
Fax: (210) 588-2908
Attorney for Defendant University Health System

Mark Kosanovich
Fitzpatrick & Kosanovich, P.C.
P.O. Box 831121
San Antonio, TX 78283
(210) 408-6793
Fax: (210) 408-6797
mk@fitzkoslaw.com
Attorney for Defendants The City of San Antonio and Officer Michael Kohlleppel

/s/ Robert Piatt
Robert W. Piatt III